SUPREME COURT, U. S.

FILED

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IN THE

Supreme Court of the United States

October Term 1975

No. 75-444

WILLIAM T. FARR,
Petitioner,

vs.

PETER J. PITCHESS,
SHERIFF OF LOS ANGELES COUNTY,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR RESPONDENT IN OPPOSITION

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INTRODUCTION

This is the second time this case has been presented to this Honorable Court on petition for writ of certiorari. On November 13, 1972[1] the court denied Farr's previous petition, made on the same grounds raised in the instant petition, save one. The only new issue presented is the claim that Farr's contempt adjudication was an unconstitutional *ex post facto* application of the law. There is no issue concerning the validity of the publicity order, rather, the question goes to the courts power to enforce it.

[1] 408 U.S. 1011, 34 L.Ed.2d 305, 93 S.Ct. 430

QUESTIONS PRESENTED

1. Is the constitutional right of freedom of speech and press abridged by requiring a news reporter to appear before a judge and answer relevant questions concerning the identity of certain persons from whom he obtained court transcripts in violation of a publicity order; can the mandate of the United States Supreme Court in *Sheppard* v. *Maxwell,* 384 U.S. 333, 16 L.Ed. 2d 600 be negated by protecting under a claim of First Amendment rights a reporter's refusal to reveal observed violators of a criminal trial publicity order?

2. Under the facts of the case have constitutional *ex post facto* principles been violated by the enforcement of a coercive civil contempt sanction?

3. Is a trial judge under the decision of *Mayberry* v. *Pennsylvania,* 400 U.S. 212, disqualified from adjudicating the contempt of a witness who willfully refuses to answer relevant questions?

STATEMENT OF FACTS

The summary of facts in the Court of Appeals decision is comprehensive, however, the petitioner's statement is inadequate or misleading by omission of the following facts.

1. The full extent of petitioners activities in obtaining the Virginia Graham transcripts were not disclosed at the in chambers conferences during the *Man-*

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son trial. It was not until the initial hearing in June of 1971 that it was revealed that Farr had actually solicited the transcripts from attorneys he knew were subject to the publicity order in exchange for his promise to conceal their identity.

2. The colloquy that took place in Judge Older's chambers on October 8, 1970 occurred after Farr had made his promise to conceal and had obtained the transcripts. There was no causal connection between those in chambers conversations and the violations of the court publicity order.

3. The subsequent proceedings against Farr for contemptuous interference with a court order were dismissed on a technical ground, not on the merits. The trial court was of the opinion that the contempt proceeding was quasi-criminal in nature and that the *corpus delecti* rule applied; therefore, the offense had to be established by evidence other than the defendants own statements. At no time has Farr ever denied that he obtained the transcripts from the attorneys in exchange for a promise to conceal.

4. It is true that no contempt proceeding has ever been initiated against any party subject to the publicity order, but that fact weakens, rather than supports, petitioners case. Any action against the guilty attorneys has been frustrated by Farr's refusal to reveal their identity.

REASONS FOR DENYING THE PETITION

The Larger Problem

A substantial and disturbing problem existing unresolved since the opinion of this Supreme Court in *Sheppard* v. *Maxwell,* and posing a substantial threat to effective compliance with the Court's directive in that case, manifests itself in this case. This is the problem of enforcing valid court publicity orders issued in compliance with *Sheppard* when counsel and members of the press collaborate and the reporter refuses to reveal the identity of the party violating the court order. In such circumstances not only is the violator protected but dissemination of the prejudicial publicity is encouraged and placed beyond the authority of the trial court to curtail. Such potential for abuse cannot be countenanced.

Your Honorable Court in *Sheppard,* in unequivocal terms, mandated the trial courts of this country to take effective action at the outset of a criminal trial to insure the accused a fair hearing untainted by prejudicial newspaper publicity. In language that could not be more express or urgent it was stated that under appropriate circumstances the trial judge should make orders proscribing extrajudicial statements concerning a pending criminal case by lawyers, parties, witnesses, and court officials. Failure to take such protective measures could be construed as effectively denying the accused a fair trial, requiring a reversal of the conviction.

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The Court's concern with the prevention of prejudicial extrajudicial statements was again expressed most recently by the majority opinion in *Branzburg* v. *Hayes,* where at 33 L.Ed.2d 626, 642, the *Sheppard* case was cited as authority for the issuance of trial court orders proscribing extrajudicial statements by attorneys, witnesses, and court officials. In addition, the Court commented that where necessary to assure a defendant a fair trial, newsmen "may be prohibited from attending or publishing information about trials."

Although the opinions of the Court in *Sheppard* v. *Maxwell* and *Branzburg* v. *Hayes* indicate that in appropriate circumstance direct restraints on publication might be imposed upon the press, the constitutional validity of such action has not yet been directly determined. Thus, once the information has been acquired by the press it remains questionable whether publication of that information, no matter how potentially prejudicial to the conduct of a fair trial, could be foreclosed. The crux of the problem is the existence of this hiatus between the court's duty to restrict extra judicial statements by officers of the court and its apparent lack of direct authority over the news media once the prejudicial information is in their possession. How can the court fulfill its duty to provide a fair trial unless effective enforcement of its valid orders governing the conduct of its own officers is assured?

The facts of the instant case portray accurately the gravity of this problem, particularly when counsel and reporters collaborate. If a reporter can claim an immunity from the requirement of all citizens to testify, the courts are rendered powerless to perform the duties required of them by the United States Supreme Court. When the parties enjoined by a trial court's publicity order can shield themselves from discovery and corrective action by merely giving the extrajudicial statements to members of the news media, the ability of the trial court to protect the accused from the prejudicial effect of such statements is reduced to nothing more than the issuance of impotent admonishments. When a reporter can not only hide behind an alleged reporters "privilege" to the frustration of a court's legitimate and compelling duty but can also rely upon such a "privilege" to obtain the extrajudicial statements in the first instance, the trial court's continuing viability as the protector of a defendant's constitutional right to a fair trial is in serious jeopardy.

I

THE PETITIONER'S FIRST AMENDMENT RIGHTS HAVE NOT BEEN VIOLATED

The initial question presented that the petitioner's First Amendment rights have been abridged has been answered by the opinion of the court in *Branzburg* v. *Hayes* (1972) 408 U.S. 665, 33 L.Ed.2d 625. It is quite clear that there has been no attempt by the court

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in this case to annex the news media as an investigative arm of the government. Rather, they illustrate a conscientious effort by the court to give meaningful protection to the fair trial guarantees mandated by the Supreme Court in *Sheppard* v. *Maxwell,* 384 U.S. 333, 16 L.Ed.2d 600, by inquiring into the identity of two, perhaps three attorneys, who fragrantly violated the court's protective order.

In view of the petitioners statements that he had obtained the information from two attorneys admittedly subject to the publicity order and in a criminal case that was probably the most publicized in the history of the United States, the trial court, if it were to observe its judicial responsibilities, was compelled to conduct an inquiry into the identity of the violators. It is important to note that the proceedings at no time could be characterized as a fishing expedition. The court prior to instituting its inquiry, had been furnished with information indicating that the petitioner had knowledge of the identity of the attorneys in question. At subsequent hearings, of course, the petitioners own testimony confirmed that he had in fact received the information from at least two and perhaps three of the attorneys subject to the order.

In *Branzburg* v. *Hayes,* the Court rejected the claim that a newsman had an absolute constitutional privilege against being compelled to reveal the sources of his information.

In *Branzburg,* the reporter was held to be required to appear and testify before a grand jury investigating a crime, the court being of the opinion that the overwhelming interest of the public in the investigation of crimes by grand jurys outweighted any indirect, consequential and uncertain burden on news gathering activities. In the instant case, the reporter's testimony was sought in a court of law only after it had been clearly established (by the reporter's own statements) that he knew the identity of the attorneys violating the courts publicity order. In addition, this case is directly concerned with the protection of another constitutional amendment of great importance in a free society—the Sixth Amendment guaranteeing a criminal defendant a trial before an impartial jury, free from the effects of prejudicial publicity. The concurrent accommodation and protection of Sixth Amendment rights was not a factor present in the *Branzburg* case.

The petitioners attempted distinction of *Branzburg* is extremely superficial. The discovery of the identities of attorneys violating fair trial protection orders is immensely more important to the administration of justice than the concerns which prompted the decision in *Branzburg.* In *Branzburg,* societys compelling interest in effective law enforcement through the discovery and prosecution of criminals was held to be predominant. In the present case, the discovery of a criminal is only a part of the larger issue, for here we are confronted with a direct challenge to ef-

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fective enforcement of a criminal defendant's right to a fair trial. If a reporter can request and obtain information in violation of a fair trial protective order and then hide the attorneys identity behind a claim of First Amendment rights, any publicity order would be totally ineffectual. As the facts herein so amply demonstrate reporter and attorney do not conduct their activities in the presence of third parties.

The distinction for First Amendment analysis between a grand jury proceeding and a criminal trial was previously noted by this court when in *Wood* v. *Georgia* (1962) 370 U.S. 375, 8 L.Ed.2d 569, the majority observed:

> "First, it is important to emphasize that the case does not represent a situation where an individual is on trial; there was no 'judicial proceeding pending,' in a sense that prejudice might result to one litigant or the other by ill-considered conduct aimed at influencing the outcome of a trial or a grand jury proceeding . . . *and of course the limitations on free speech assume a different proportion when expression is directed toward a trial as compared to a grand jury investigation.*" (Emphasis added) Wood v. Georgia, 8 L.Ed.2d at page 580.

The petitioner cooperated with, and promised to conceal the identity of each of the attorneys acting in violation of the court order. The following comment of this court in *Branzburg, supra* at page 646, is therefore particularly in point.

> "Thus. we cannot seriously entertain the motion that the First Amendment protects a newsman's agreement to conceal the criminal conduct of his source, or evidence thereof, on the theory that it is better to write about crime than to do something about it. Insofar as any reporter in these cases undertook not to reveal or testify about the crime he witnessed, his claim of privilege under the First Amendment presents no substantial question. The crimes of news sources are no less reprehensible and threatening to the public interest when witnessed by a reporter than when they are not."

It is significant to note that the scope of inquiry in the proceedings before Judge Older were much more narrow and relevant than was the situation in *Branzburg*. The petitioner's own admissions established that the violators of the publicity order were all within a small defined group of individuals. Moreover, the petitioner did not object on constitutional grounds and, indeed, furnished without objection much information that clearly indicated the propriety of further inquiry by the court.

Even when the standards articulated by Mr. Justice Stewart in his dissent in *Branzburg* are applied to the facts herein, the action of the trial court did not constitute an unconstitutional infringment of First Amendment rights. The information sought was clearly relevant to a precisely defined subject of judicial inquiry, could not have been obtained by alternative means, and certainly the protection of Sixth Amend-

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ment rights and effective compliance with a constitutional mandate of the United States Supreme Court is a matter of grave national concern.

The danger to the administration of justice that recognition of a newsmans privilege would entail was observed by the majority opinion in *Branzburg*. All of those potential evils are present in the case at bar, plus the very real threat to Sixth Amendment rights. Factually and legally there exists no valid reason why the rule stated in *Branzburg* should not obtain in this case.

The premise underlying the protection of news sources is totally contradictory to the constitutional principle upon which a fair trial publicity order is based. To recognize the right to conceal the identities of attorneys violating such orders would inevitably encourage the dissemination of prejudicial information and invite violations of protective orders.[2]

If the recognition of a privilege in this case will serve to expedite the dissemination of information the order re publicity was intended to curtail, how can it

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[2]This is a consideration that has not been overlooked by the petitioner. Professor Blasi, in his exhaustive study, The Newsman's Privilege; An Emperical Study, 70 Michigan Law Review (1971) 229 at 265, made the follow-in observation from an interview with Farr.

> "A somewhat different way in which a subpoena can actually help a reporter acquire sources was suggested to me in an interview with Bill Farr, a former investigative reporter who is currently the subject of a widely publicized subpoena dispute in California. Farr speculates that the publicity he has received in accepting a contempt sentence rather than revealing his source should increase the number of unsolicited tips and leads he gets simply because people who have a story to tell will have heard of him."

seriously be denied that the mandate of the United States Supreme Court is not being frustrated. Your Honorable Court has declared that the Sixth Amendment requires that prejudicial publicity be restricted, not encouraged. No valid public purpose is promoted by broadcasting while the trial is in progress the type of information that was related in the petitioner's newspaper article.

The cribbed view taken by petitioner that before a court can inquire into a violation of its order it first must be shown that the violation resulted in prejudice to the accused is myopic and if followed would not only prevent effective enforcement of publicity orders but invites their breach. There can be no question that the type of lurid article published by the petitioner was inherently prejudicial.[3] It was expressly excluded from evidence and the dissemination of that type of information while the trial was in progress served no more valid public purpose than the release of a defendants pretrial confession or statements later ruled inadmissible.[4] To require that the court find that the violation of the order actually proved prejudicial to a defendants case before the violation can be investigated would invite wholesale breaches of court orders

[3]The article bore the headline, "Liz, Sinatra on Slay List - Tate Witness. Ghastly Tortures Planned for Stars." In this article Mr. Farr described in lurid and graphic detail the numerous tortures that the defendants in the trial purportedly planned to inflict upon the named celebrities. These acts allegedly included gouging out Elizabeth Taylor's eyes, castrating Richard Burton and skinning Frank Sinatra alive while playing his records.

[4]Recently Mr. Justice Blackmun in *Nebraska Press Assn. v. Stuart* noted in an Opinion in Chambers that the news media could be *directly restrained* from reporting a purported confession and circumstances leading to a defendants arrest.

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and leave a defendant's fair trial rights subject to the caprices of reporters striving for a sensational story and unprincipled attorneys willing to cooperate.

The petitioners facile claim that the Circuit Court of Appeals opinion implies that attorneys have a proclivity to violate publicity orders, ignores other evidentiary avenues available to the court and that the newsman itself remains subject to prosecution if they collaborate with those violating court orders need not be examined any further than the facts of this case. The petitioners theorization is completely rebutted by the actions that took place during the *Manson* proceedings. Not only did Farr obtain the information from one attorney, but from two and perhaps, a third. No one observed the attorneys handing the transcripts to Mr. Farr and when the attorneys themselves were called to testify, they all denied giving Farr the transcripts. There simply was no existing evidentiary avenues available to the court to ascertain the identity of the attornies except Mr. Farr, a fact he was well aware of when he promised to conceal their identities. Lastly, the claim that newsmen remain subject to criminal prosecution for their interference with a court order is but a theoretical possibility, as the facts of the subsequent Farr contempt proceedings bear witness. If there is no evidence other than the reporters own statements or the newspaper article, the *corpus delicti* of the offense can not be established.

II

PETITIONER'S CONTEMPT CITATION DOES NOT VIOLATE CONSTITUTIONAL EX POST FACTO PRINCIPLES

It is extremely difficult to fathom from the arguments presented by the petitioner any logical relationship between *ex post facto* principles and the circumstances of the present case. Initially it should be observed that *ex post facto* is primarily a rule of criminal law and that in California proceedings taken under the authority of California Code of Civil Procedure Section 1219 are not criminal actions but civil contempt proceedings.[5] Provisions of the California Penal Code are totally inapplicable, *Ex parte Abbott* (1893) 94 Cal. 333; *Ex parte Karlson* (1911) 160 Cal. 378; *Osborne* v. *Owsley* (MO. 1954) 264 S.W.2d 332.

Although under some circumstances the distinction between a civil and criminal penalty in contempt proceedings may be a hazy one, that is certainly not the case involving a conditional sentence to compel obedience to a court order. When a party has the ability to perform an act the law requires, a sentence conditioned solely upon the parties continued refusal, is coercive, not punitive in nature. The federal courts have long classified such coercive contempt sentences as civil, not criminal.

It is important to note that the petitioner herein had made his promises to conceal and induced the sev-

[5]Mr. Justice Douglas described Farr's coercive sentence as civil in an opinion issued when petitioner was ordered released pending disposition of appeals. 409 U.S. Petitioner's 1243, 342 Ed.2d 655.

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eral violations of the courts publicity order prior to any conference in Judge Older's chambers. The petitioner's contempt arises out of his refusal to testify, not his solicitation of a violation of the order. The court warned him several times before holding him in contempt that his refusal would constitute contempt. He was advised by counsel at all times, and enforcement of the order was stayed until exhaustion of all appeals. Subsequent to appellate rulings, Farr was twice afforded the opportunity to purge himself of his contempt.

The Petitioners mechanical argument lacks legal substance. Questions on the scope of statutory privilege constantly rise and require appellate rulings and the courts have consistently held that when the witnesses' claims have been adjudicated against him, he is required to answer the relevant questions or face coercive sanctions. This is what occurred, in the *Branzburg* case.

California Evidence Code Section 1070, relied upon by the appellant in the first instance to support his refusal to testify, is not a criminal statute. It is a statute granting certain civil immunities purely as a matter of legislative grace. The judicial construction of that statute in *Farr* v. *Superior Court,* 99 Cal.Rptr. 342 22 Cal.App.3d 60. (1971) did not broaden a crim-

inal statute but in very limited factual circumstances narrowed the scope of a legislative immunity.

All of petitioners ex post facto arguments suffer from an erroneous assumption. They relate Farr's contempt adjudication to his conduct in soliciting the violation of the court order and in publishing a story based on the obtained information. While petitioners conduct was questionable he was not held in contempt for his dealings with the attorneys, but was held in contempt solely for his refusal to testify as a witness.

The law did not authorize Farr and the attorneys to cooperate in the violation of publicity orders either in October of 1970 or at any time. What Farr did in October of 1970 is totally irrelevant. The petitioner's conduct that is in question is his refusal to testify and in this regard he received adequate notice of the risk that he was undertaking.

The essence of the ex post facto rule is that a person must be given fair warning that his contemplated conduct will result in criminal sanctions. It is beyond argument that Farr received ample warning both before the sentence was imposed and before he was incarcerated that his refusal to answer would constitute a contempt of court. No valid ex post facto claim can possibly arise from an appellate decision determining that a witness must answer relevant questions if the witness is thereafter given the opportunity to answer the questions and refuses to do so. If the witness has

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been afforded the opportunity to test the legality of his refusal on appeal, advised of the state of the law as determined by the appellate courts and then given the opportunity to comply with the law, any taint of ex post facto application has been dissipated.

III

THE PETITIONER WAS NOT DENIED A FAIR HEARING

The claim of bias was initially raised in Farr's first petition for writ of certiorari to this court. Since denial of that petition, both the California Court of Appeal on a subsequent petition for writ of habeas corpus (*In Re Farr,* 111 Cal.Rptr. 649, 36 Cal.App.3d 577) and the United States Court of Appeals for the Ninth Circuit reviewed this claim and found it devoid of merit. Similarly, the United States District Court found the allegation to be without foundation (see Petitioner's Brief, Exhibit "A," pages 40-41).

The petitioner's contentions of bias have come very late in this action. Not only did he fail to object to Judge Older presiding at the hearing, his attorney represented that prior to the hearing he had examined the Judge's background and affirmatively represented that there would be no objection to Judge Older presiding. No claim of bias was raised in his appeal to the California Court of Appeal or subsequent petition for hearing in the California Supreme Court.

A review of the record clearly indicates the lack

of bias. Indeed various actions taken by the court throughout the proceedings indicated a concerned and conscientious effort to determine the identity of the guilty attorneys without the necessity of incarcerating Mr. Farr. Ascertaining the identity of the attorneys in question was the single goal of the trial courts inquiry, not the incarceration of the petitioner. Mr. Farr was summoned as a witness to the proceedings because he had previously out of court volunteered the information that he had obtained the Virginia Graham statement from an attorney in the case.

Judge Older during the hearings gave each party full and fair opportunity to argue their respective positions. Before the petitioner was held in contempt, the court continued the proceedings and summoned all of the attorneys involved in the case and asked each under oath if they had given the transcripts to Mr. Farr. A denial by all raised the issue of perjury and necessitated further inquiries to Mr. Farr. The petitioner was afforded the opportunity to purge himself of contempt before the contempt judgment was entered and again in proceedings held after the Supreme Court denied certiorari. Moreover, the trial court on its own initiative stayed execution of its sentence until completion of Farr's appeals.

After the United States Supreme Court denied certiorari, Judge Older again held proceedings with the object of identifying the guilty attorneys without

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the necessity of incarcerating Mr. Farr. On November 22, 1972, all of the attorneys in question were again summoned to court and again, each denied under oath that they had given Farr the transcripts and affirmatively represented to him that he had no obligation to conceal their identity nor did they have any objection to his revealing the identity of his sources. Despite such representations, Farr again refused to identify the individuals who gave him the transcripts.

Petitioner's other arguments concerning bias equally lack substance. He concedes that he was cited for contempt immediately after refusing to answer the questions but tries to attach some significance to the fact that the judgment itself was not filed until nine days later. These nine days were spent in preparing the lengthy order and in collecting exhibits, and a delay for that purpose was stipulated to by his then attorney.

Petitioner's interpretation of the subsequent contempt proceedings against him for willful interference with a court order is deceptive. It is true that he was found not guilty of the contempt charged but not on the merits. The contempt citation was dismissed because the only evidence of his interference with the court publicity order was his own admissions which, in the opinion of the Judge who heard the case, could not be relied upon to establish the *corpus delicti*. (An exerpt from the transcript of Judge Jefferson's ruling is attached hereto as Exhibit "A.")

A conditional sentence of the nature imposed by the trial court has long been recognized as the least severe form of contempt sentence because it dissolves as soon as the contemner has obeyed the law. In view of the nature of the sentence imposed, petitioner's claim of prejudice is without substance. To compel an answer to its questions the courts only alternative was to imprison Mr. Farr until he consented to respond. No analysis of the judges state of mind is necessary or relevant under these cirmustances, for all that petitioner had to do to dissolve such a sentence was to comply with the valid court order.

Mayberry v. *Pennsylvania,* 400 U.S. 455, 91 S.Ct. 499 (1971) and *Johnson* v. *Mississippi,* 403 U.S. 212, 29 L.Ed.2d 423 (1971) cited by the appellant on this point are easily distinguishable on their facts as the District Court observed. The cases all pertain to behavioral offenses of a disruptive nature or acts constituting a vicious, slanderous, or personal vilification of the trial judge, occurring in his immediate presence. In each case, there was an objection to the trial court presiding made prior to the adjudication of contempt and in each case the sentence was a criminal punishment, not a coercive sanction.

The tortured analysis adopted by the petitioner in his attempt to twist the present case into the context of the *Mayberry* and *Johnson* cases overlooks one simple and elementary fact. The contempt sentence merely orders the petitioner to obey a valid court

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order. With all of Farr's assertions, there is no claim that any of his statements made under oath were untrue or that he did not in fact induce release of the transcripts from the attorneys he knew were governed by the court publicity order. The referral of the matter to another judge would in no way affect the adjudication of contempt as a willful refusal to testify constitutes a contempt in any court.

CONCLUSION

Every appropriate appellate court that has considered this case has refused to disturb the contempt judgment. The claims of prejudice and that first amendment rights have been violated, was examined at every appellate level in California, and by the United States District Court, the Circuit Court of Appeals and the United States Supreme Court.

Of all the recent cases involving claims of a newsman's privilege, the petitioners is the least worthy, for here he deliberately attempted to induce a breach of the court's protective order and succeeded. His refusal to testify was an effort to comply with his agreement with the attorneys. The trial courts attempt to ascertain the identity of attorneys who violated a protective order issued in a sensational and highly publicized criminal trial cannot be superficially characterized as a meaningless effort to satisfy the courts curiousity.

The viability of a fair trial protective order issued

in accordance with this courts mandate in *Sheppard* v. *Maxwell* is directly and deliberately challenged by the petitioner's actions in this case. As Your Honorable Court in *Sheppard* stated,

> "Neither prosecutors, counsel for defense, the accused, witnesses, court staff, nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function. Collaboration between ounsel and the press as to information affecting the fairness of a criminal trial is not only subject to regulation, but is highly censurable and worthy of disciplinary measures."

In light of that observation and the uncontradicted evidence of the petitioners behavior, his claims of First Amendment privilege indeed sound very hollow. To adopt the position urged by the petitioner would open the door to potential abuses so obvious that they need no recitation here. This case provides the sobering example. No substantial federal constitutional questions are present and the petition for writ of certiorari should be denied.

DATED: .....

Respectfully submitted

JOHN H. LARSON, County Counsel

By .....
WILLIAM F. STEWART
Principal Deputy
County Counsel

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So it is my holding in this case that the only proof of this alleged contempt are these statements made by Mr. Farr in the prior proceeding, and that they cannot be used against him in this proceeding to establish the *corpus delicti*. There is no other evidence to say that he solicited the transcript, so therefore I find him not guilty of any contempt in this case.

MR COOPER: Thank you, your Honor.

(Proceedings concluded.)

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
County of Los Angeles)

I, KATHLEEN RACKLIN, an Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing pages, 1 to 14, inclusive, comprise a full true and correct transcript of the proceedings had in the matter of the within action on Monday, December 6. 1971, and that said transcript contains all of the evidence, all of the objections of counsel, and rulings of the Court, and all matters to which the same relate.

Dated this 20th day of December, 1971.

KATHLEEN RACKLIN,
Official Reporter